

[ORAL ARGUMENT NOT YET SCHEDULED]
Nos. 15-1074, 15-1130

In the United States Court of Appeals
for the District of Columbia Circuit

AMPERSAND PUBLISHING, LLC,
D/B/A SANTA BARBARA NEWS-PRESS,
Petitioner,

v.
NATIONAL LABOR RELATIONS BOARD,
Respondent,

GRAPHICS COMMUNICATIONS CONFERENCE OF
THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Intervenor.

On Petition for Review of an Order of the National Labor Relations
Board

**PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE REPLY BRIEF; DECLARATION OF ANNA M.
BARVIR**

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To the Clerk of the United States Court of Appeals for the District of Columbia Circuit:

Pursuant to rules 26 and 28(e) of the D.C. Circuit Rules and rules 26 and 27 of the Federal Rules of Appellate Procedure, Ampersand Publishing, LLC, d/b/a Santa Barbara News-Press (“the News-Press”), through its counsel of record, hereby submits this Unopposed Motion for Extension of Time to File Reply Brief. This motion is based on the Declaration of Anna M. Barvir attached hereto. Counsel for Respondent National Labor Relations Board (“NLRB”) and counsel for Intervenor Graphics Communications Conference of the International Brotherhood of Teamsters (“the Union”) have both indicated that they do not oppose the News-Press’ request. (Declaration of Anna M. Barvir (“Barvir Decl.”), ¶¶ 2-3.)

At present, the News-Press’ Reply Brief is due on October 14, 2016. (Barvir Decl., ¶ 4.) The News-Press requests that this deadline be extended for 35 days, up to and including November 18, 2016. The Court previously granted the News-Press’ unopposed motion for a 60-day extension of time to file its Opening Brief from

November 24, 2015, to January 25, 2016.¹ No extensions of time for the filing of Petitioner's Reply Brief have been requested or granted. (Barvir Decl., ¶ 5.)

Pursuant to rule 26(b) of the Federal Rules of Appellate Procedure, the News-Press affirms that good cause exists as described below and that this request is not made for reason of delay. (Barvir Decl., ¶ 12.)

The Union recently requested, and was granted, a 30-day extension to file its brief, making the Union's brief due on September 30, 2016. When counsel for the News-Press, Ms. Anna M. Barvir, informed the Union's counsel that it would not oppose that request, she also explained that such an extension would likely create a scheduling conflict—making the News Press' Reply Brief due shortly after Ms. Barvir was scheduled to argue an appeal in the Ninth Circuit and during her pre-paid, non-refundable trip out of the country. (Barvir Decl., ¶ 6.) Counsel for the Union indicated

¹ The News-Press' primary reason for seeking that extension was the fact that Michel & Associates, P.C. had been retained by the News-Press only a month before the Opening Brief was originally due and needed time to acquire the complete record, become familiar with the record, research the relevant issues, and prepare the Opening Brief. (Barvir Decl., ¶ 5.)

then that, in light of those circumstances, the Union did not anticipate opposing the News-Press' request for a reasonable extension. (Barvir Decl., ¶ 6.)

Ms. Barvir, the attorney primarily responsible for managing and briefing this appeal on behalf of the News-Press, will be preparing for and arguing a case before the Ninth Circuit Court of Appeals on October 7, 2016. (Barvir Decl., ¶ 7.) Immediately thereafter, Ms. Barvir will be out of the country and she will not return to the office until October 20, 2016. (Barvir Decl., ¶ 8.) Upon her return, Ms. Barvir will be responsible for drafting two briefs in state court with deadlines in late October and early November. (Barvir Decl., ¶ 9.)

Because Ms. Barvir is the sole attorney responsible for the substantive representation of the News-Press in this matter and is uniquely familiar with the history of this appeal and the News-Press' legal arguments, there is no one else responsible for drafting the Reply Brief on the News-Press' behalf during the period of her unavailability. (Barvir Decl., ¶ 10.)

The above reasons preclude the News-Press from filing its Reply Brief by the current deadline of October 14, 2016, without

significantly impairing its quality. (Barvir Decl., ¶ 11.) Extending the News-Press' deadline by 35 days will provide the News-Press with sufficient time to review, analyze, and research any new issues raised in the Union's brief and to prepare a reply brief that comprehensively addresses all the issues raised in both the NLRB's and the Union's responsive briefs.

For the foregoing reasons, the News-Press respectfully requests that the Court grant its unopposed motion to extend the due date to file its Reply Brief for 35 days, up to and including November 18, 2016.

Date: October 3, 2016

MICHEL & ASSOCIATES, P.C.

s/ Anna M. Barvir

Anna M. Barvir

Counsel for Petitioner

DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare:

1. I am an attorney at law duly licensed to practice in the State of California and before the Supreme Court of the United States, the D.C., Fourth, Ninth, and Tenth Circuit Courts of Appeals, and the United States District Courts for the Eastern and Northern Districts of California. I am an attorney at Michel & Associates, P.C., counsel of record for Petitioner Ampersand Publishing, LLC, d/b/a Santa Barbara News-Press (“the News-Press”). I have personal knowledge of the facts set forth herein and if called as a witness I could and would competently testify thereto.

2. On September 30, 2016, I e-mailed counsel of record for Respondent National Labor Relations Board, Mr. Micah Jost and Ms. Julie Broido, regarding any objection to the News-Press’ motion for a 35-day extension of time to file its Reply Brief. On the same day, Mr. Jost responded stating his client would not oppose this motion.

3. On September 30, 2016, I e-mailed counsel of record for Intervenor Graphics Communications Conference of International Brotherhood of Teamsters, Mr. Ira L. Gottlieb, regarding any

objection to the News-Press motion for a 35-day extension of time to file its Reply Brief. On the same day, Mr. Gottlieb responded stating his client would not oppose this motion.

4. At present, the News-Press' Reply Brief is due on October 14, 2016.

5. The Court previously granted the News-Press' unopposed motion for a 60-day extension of time to file its Opening Brief from November 24, 2015, to January 25, 2016. The News-Press' primary reason for seeking that extension was that Michel & Associates, P.C. had been retained by the News-Press in mid-September 2015—a little over a month before Petitioner's Opening Brief was originally due—and needed the time to acquire the complete record, become familiar with that record, research the relevant issues, and prepare the opening brief. No extensions of time for the filing of Petitioner's Reply Brief have been requested or granted.

6. On August 16, 2016, Mr. Gottlieb e-mailed me regarding the Intervenor's intention to seek a 30-day extension to file its brief. On the same day, I responded that although the News-Press did not oppose the Intervenor's request so long as the Union had good cause for its request, "such an extension [would] create[] a conflict

for me—likely placing my Reply Brief due shortly after I argue an appeal in the Ninth Circuit and while I am out of the country on a vacation that is already booked.” I expressed hope that, in the event the court scheduled a briefing deadline during my trip, the Union would “reciprocate the courtesy and not oppose a reasonable extension request.” Mr. Gottlieb then responded that “in light of the circumstances you describe, the union [did] not anticipate opposing a request by the company for a reasonable extension to file a reply.”

7. I will be arguing an appeal before the Ninth Circuit Court of Appeals on Friday, October 7, 2016, and I will be spending much of that week preparing for my argument.

8. I will not be in the office from October 8 through October 20, 2016, while traveling out of the country on a pre-booked, non-refundable vacation.

9. Subsequent to my return, I will be responsible for two other briefs in state court with competing deadlines in late October and early November.

10. Because I am the sole attorney responsible for the substantive representation of the News-Press in this matter and am uniquely familiar with the history of this appeal and the News-

Press' legal arguments, there is no one else responsible for drafting briefs, responding to motions, or making appearances on the News-Press' behalf during the period of my unavailability.

11. The above reasons preclude me from filing the News-Press' Reply Brief by the current deadline of October 14, 2016, without significantly impairing its quality.

12. This motion is made in good faith for the reasons of actual need set forth herein and not for the purpose of delay.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed the 3rd day of October 2016, at Long Beach, California.

s/ Anna M. Barvir
Anna M. Barvir
Declarant

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, an electronic PDF of PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF; DECLARATION OF ANNA M. BARVIR was uploaded to the Court's CM/ECF system, which will send notice of filing to counsel for all participants in the case who are registered CM/ECF users:

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Date: October 3, 2016

MICHEL & ASSOCIATES, P.C.

s/ Anna M. Barvir
Anna M. Barvir
Counsel for Petitioner